

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CALVIN C. LOGAN, DAVID JOHNSON,	:	CIVIL ACTION
ANDRE MARTIN, and similarly	:	
situated,	:	
	:	
vs.	:	
	:	
F. EMMET FITZPATRICK, et al.	:	NO. 06-4450

**MEMORANDUM**

**ROBERT F. KELLY, Sr. J.**

**JUN E 20, 2007**

Plaintiffs have filed a motion to vacate judgment which we will treat as a motion to reconsider our decision of May 3, 2007 granting defendants' motion to dismiss the above-captioned lawsuit.

That lawsuit was dismissed because prisoners in state custody cannot use a § 1983 action to challenge the fact or duration of confinement; they must seek federal habeas corpus relief or appropriate state relief instead.

Plaintiffs seek reconsideration of our May 3, 2007 decision based on the case of Wilkinson v. Dotson, 125 S.Ct. 1242 (2005). Wilkinson does not assist the plaintiffs in the present case. The Supreme Court in Wilkinson held that the relief that the plaintiffs were seeking in that case challenged the constitutionality of state parole procedures not the fact or duration of their confinement. For that reason plaintiffs' motion to vacate judgment, which we have treated as a motion for reconsideration, will be denied.

We therefore enter the following Order.

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**ORDER**

**AND NOW**, this 20<sup>th</sup> day of June, 2007, the motion to vacate judgment (Doc. No. 12) is hereby **DENIED**.

BY THE COURT:

/s/ Robert F. Kelly  
ROBERT F. KELLY  
SENIOR JUDGE